

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of  
Northern State Power Company d/b/a  
Xcel Energy for a Certification of Need to  
Establish an Independent Spent Fuel  
Storage Installation at the Monticello  
Generating Plant

**SECOND  
PREHEARING ORDER**

This matter is before Administrative Law Judge Steve M. Mihalchick pursuant to the Notice and Order for Hearing of April 7, 2005, issued by the Minnesota Public Utilities Commission ("Commission").

The first Prehearing Order was issued in this matter on June 9, 2005. That Order set July 8, 2005 as the deadline for intervention in this matter as a party or admission to this matter as a participant with fewer rights and obligations than those of a party.

On June 9, 2005, the Petition to Intervene by the North American Water Office (NAWO) was filed with the Office of Administrative Hearings (OAH). NAWO sought party status in this proceeding due to its historical participation in similar matters and its ability to contribute to the proceeding from a public interest perspective.

On July 8, 2005, the Petition to Intervene by Minnesotans for an Energy-Efficient Economy (ME3) and the Minnesota Center for Environmental Advocacy (MCEA) was filed with OAH.<sup>[1]</sup> ME3 and MCEA seek to participate jointly in this proceeding. ME3 and MCEA seek party status to represent their members' interest in the pursuit of environmentally sustainable sources of energy. These petitioners assert that they need to participate in this proceeding to develop a factual record reflecting the true costs and effects of the proposed facilities.

No objections were received to either petition.

On July 12, 2005, Carol Overland of the Overland Law Office filed a Petition to Intervene.<sup>[2]</sup> Ms. Overland seeks party status contribute to this proceeding her expertise in the nuclear and utility areas.

Based on all of the files and proceedings of the matter, the Administrative Law Judge makes the following:

## ORDER

1. NAWO is admitted to this proceeding as a full party.
2. ME3 and MCEA are admitted to this proceeding as a full party and they may participate jointly.
3. Carol Overland's Petition to Intervene is denied.
4. NAWO, ME3, and MCEA are bound by the terms of the first Prehearing Order issued in this matter.
5. The service list to this proceeding is amended to reflect the addition of NAWO, ME3, and MCEA as parties to this proceeding. The service list is also amended to reflect a new contact person for the U.S. Nuclear Regulatory Commission.

Dated this 14<sup>th</sup> day of July, 2005.

/s/ Steve M. Mihalchick

STEVE M. MIHALCHICK

Administrative Law Judge

## MEMORANDUM

NAWO, ME3, and MCEA have identified particular interests and groups that are not already represented in this proceeding. Admitting these three groups as parties to this matter will ensure that these interests are adequately represented in this contested case proceeding.

The Overland Petition was not timely filed. The substance of that petition is that Ms. Overland has expertise in nuclear waste proceedings, electrical need analysis, and cost issues. The standards for intervention of particular relevance here are set out in Minn. Rules 1400.6200 and 7829.0800. The latter rule states in part:

Subp. 2. **Grounds for intervention.** The petition must allege the grounds for intervention and must be granted upon a showing that: the person is specifically considered by statute to be interested in the particular type of matter at issue; the person is specifically declared by statute to be an interested party; or the outcome of the proceeding will bind or affect the person with respect to an interest peculiar to that person, as distinguished from an interest common to the public or other ratepayers in general, or the person's interests are not adequately represented by one or more other parties participating in the case. <sup>[3]</sup>

In support of her Petition, Ms. Overland indicated that she was affected by the proposed action by virtue of her status as “a resident of Minnesota directly in harms way of any potential radioactive releases”<sup>[4]</sup> She noted that her residence is “downwind and downriver from Xcel’s proposed Monticello site.”<sup>[5]</sup> This is not a peculiar interest within the meaning of the rule. The positions of the other intervenors adequately represent Ms. Overland’s interests in this proceeding. The information and expertise that she seeks to contribute to this matter can be introduced into the record during the public hearing portion of these proceedings. Ms. Overland has not demonstrated grounds for intervention in this matter and therefore her Petition has been denied.

S.M.M.

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<sup>[1]</sup> The Petition was received by email on July 8, 2005, and is timely.

<sup>[2]</sup> The Petition was received by facsimile transmission on July 12, 2005, and the certification of service indicates that it was mailed to service list on July 12, 2005.

<sup>[3]</sup> Minn. Rule 7829.0800, subp. 2

<sup>[4]</sup> Overland Petition.

<sup>[5]</sup> *Id.*